

**APR 10 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTOINE L. GARABET,

Defendant - Appellant.

No. 04-50085

D.C. No. CR-00-00996-SVW-2

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Stephen V. Wilson, District Judge, Presiding

Submitted April 5, 2006<sup>\*\*</sup>

Before: HAWKINS, McKEOWN and PAEZ, Circuit Judges.

Antoine L. Garabet appeals from the sentence imposed, following remand from this court, for his jury conviction for mail fraud, in violation of 18 U.S.C. § 1341. We have jurisdiction under 28 U.S.C. § 1291, and we affirm the fine

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

imposed by the district court, and we remand the other aspects of Garabet's sentence.

Garabet contends that the fine imposed by the district court was unreasonable because the court failed to explain in adequate detail the reasons for the extent of its departure from the guidelines in setting the fine amount. We disagree, and we conclude that the fine was reasonable. *See United States v. Menyweather*, 431 F.3d 692, 701 (9th Cir. 2005).

We remand the remaining portions of Garabet's sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc). On remand, the district judge shall give the defendant an opportunity to opt out of resentencing if he is no longer interested in pursuing it. *Id.* at 1084.

The fine is **AFFIRMED**; the remaining portions of the sentence are **REMANDED**.